

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

STEFANI RUDIGIER,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Cause No.: 4:22-CV-01103 RWS
	)	
HEATHER SMITH, LPN,	)	
	)	
Defendant.	)	

**DEFENDANT SMITH'S MOTION TO AMEND CASE MANAGEMENT ORDER**

Defendant Heather Smith, by and through the undersigned counsel, moves to amend the Case Management Order in this matter to extend the deadlines to request an independent physical and/or mental examination of the Plaintiff pursuant to Fed. R. Civ. P. 35.

1. This individual claim was severed from the matter of *Robert Hopple, et al. v. St. Francois County, et al.*, Case No. 4:20-CV-1838 RWS, by Order of the Court on October 14, 2022 [ECF 70], and the operative Complaint for the individual claim was filed on October 31, 2022 [EFC 4].

2. On March 8, 2024, Plaintiff – with the consent of Defendant – submitted a request to amend the Case Management Order to extend all of the then existing expert deadlines by thirty (30) days [ECF 44]. This request was granted by Order of the Court on March 11, 2024 [ECF 45].

3. Every iteration of the Case Management Order in this case before the March 11, 2024 order provided a period of time following the disclosure of Plaintiff's expert witness(es) and opinion report(s) for Defendant's counsel to receive and review same to determine whether a request for an independent physical or medical examination of the Plaintiff would be needed.

(See *Hopple, et al.*, No. 4:20-CV-1838 RWS, ECF Nos. 30, 44 and 54, and ECF 41 in the instant (*Rudigier*) matter.)

4. The parties neglected to include an extension of the Defendant's independent medical examination request deadline for a similar time period in the prior consent request to extend the expert deadlines [ECF 44].

5. Plaintiff's claims against Defendant are for deliberate indifference to her medical needs by allegedly (a) failing to treat her bipolar disorder, anxiety and depression (Count II), and (b) failing to address her abdominal pain (Count III). Until the disclosure of an expert witness by Plaintiff, it is unclear as to what type of medical provider(s) will be needed for an independent examination of Plaintiff.

6. Defense counsel recently requested the consent of Plaintiff's counsel to extend the deadline for making a request for physical and/or mental examination of Plaintiff when Plaintiff's counsel sought an additional extension of their deadlines to disclose their expert(s), however Plaintiff's counsel declined same.

7. This request is made in the interest of justice and Defendant believes that there will be no substantial prejudice to Plaintiff by granting same.

WHEREFORE Defendant Heather Smith prays for an extension of time to and including May 3, 2024 to request an independent physical and/or mental examination of Plaintiff, along with any such other and further relief deemed just and proper.

Respectfully submitted,

HELLMICH, HILL & RETTER, LLC

/s/ Michelle V. Stallings

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**CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing was filed via the court's electronic filing system, this 2<sup>nd</sup> day of April, 2024, to all counsel of record.

/s/ Michelle V. Stallings